

SECTION 11.10 PROGRESSIVE DISCIPLINE AND JUST CAUSE

Last Review: 3/13

Discipline must be taken for just cause with correction of inappropriate behavior, inefficiency, or performance being the goal. Discipline imposed as retribution or punishment is inappropriate and will not be supported in the grievance or appeal process. Discipline must be administered in a consistent and fair manner.

DEFINITIONS:

Progressive Discipline: Progressive discipline is the action taken by management to correct or change an employee's behavior. The severity of the discipline increases with the repetition or seriousness of the inappropriate behavior. The specific type of discipline imposed (see Section 11.30) should generally be the least form that will result in the required correction or change. An employee's record of previous offenses may never be used to discover whether the employee was guilty of the immediate rule infraction. The only appropriate use of the employee's record is to help determine the severity of discipline once an employee has been found guilty of the current offense. Some acts of misconduct are so egregious that, following a fair and impartial investigation, the appropriate corrective action is a higher level of discipline.

Just Cause: Just cause includes the conditions that must exist for discipline to be considered valid and supportable. Just cause for discipline is required for all employees by all collective bargaining agreements and the Department of Administrative Services – Human Resources Enterprise (DAS-HRE) rules. The following elements typically must be shown before just cause for the disciplinary action will be found to exist:

1. **NOTICE:** Did the employer give to the employee forewarning or foreknowledge of the possible or probable consequences of the employee's conduct? Was this notice given in writing?
2. **REASONABLE RULE OR ORDER:** Was the employer's rule reasonably related to (a) the orderly, efficient, and safe operation of the employer's business, and (b) the performance that the employer should properly expect of the employee?
3. **INVESTIGATION:** Did the employer, before administering the discipline to an employee, make an effort to discover whether the employee did in fact violate or disobey a rule of management?
4. **FAIR INVESTIGATION:** Was the employer's investigation conducted fairly and objectively?
5. **PROOF:** At the investigation, did the investigator obtain substantial evidence or proof that the employee was guilty as charged?
6. **EQUAL TREATMENT:** Has the employer applied its rules and penalties evenhandedly and without discrimination to all employees?
7. **PENALTY:** Was the degree of discipline administered by the employer in a particular case reasonably related to (a) the seriousness of the employee's proven offense, and (b) the record of the employee in his or her service with the employer?